

HON. ROBERT S. LASNIK

09-CV-00681-IFP

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMAZON.COM, INC.,

Plaintiff,

v.

DISCOVERY COMMUNICATIONS, INC.,

Defendant.

Case No. 2:09-cv-00681-RSL

**JOINT STIPULATION AND MOTION  
FOR NEW SCHEDULING ORDER**

NOTE ON MOTION CALENDAR:  
July 28, 2010

WHEREAS, a scheduling conflict has arisen for counsel for plaintiff Amazon.com, Inc. ("Amazon") with respect to the date currently set for the Markman hearing (September 16, 2010), and counsel for defendant Discovery Communications, Inc. ("Discovery") is scheduled to be at trial in another matter in October 2010;

WHEREAS, on July 7, 2010, the parties filed a Joint Submission Re: Potential Technical Advisors (Dkt. No. 94) in which Discovery proposed Professor Daniel Weld as a potential advisor to the Court for claim construction, and Professor Weld has subsequently become unavailable for the Markman hearing on September 16, 2010;

WHEREAS, the parties are engaged in co-pending patent litigation in the United States District Court for the District of Delaware (case no. C09-178-ER) (the "Delaware action"), and the co-pending litigation is in the process of consolidation with a related lawsuit (case no. C10-600-ER);

WHEREAS, the parties accordingly anticipate a four-month extension of the schedule

in the Delaware action;

WHEREAS, Discovery desires to maintain the relative timing of the schedules in this action and the Delaware action;

WHEREAS, counsel for Amazon and for Discovery have met and conferred to discuss the current schedule in this action, and the parties have agreed, subject to approval of the Court, that the schedule in this action should be extended by approximately three months;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by undersigned counsel for Plaintiff Amazon and Defendant Discovery, subject to the approval of the Court, that the schedule in this action, previously set in the Court's Amended Order Setting Trial Date and Related Dates dated March 15, 2010, shall be revised as follows:

Event	Current Schedule	<u>Proposed</u> New Schedule
TRIAL DATE	June 6, 2011	September 12, 2011 (or thereafter) <sup>1</sup>
Joint claim construction and prehearing statement due pursuant to Local Patent Rule 132	July 29, 2010	October 21, 2010
Opening claim construction briefs due (24 page limit)	August 19, 2010	November 11, 2010
Responsive claim construction briefs due (24 page limit)	September 2, 2010	December 2, 2010
<u>Markman</u> hearing at 9:00 a.m.	September 16, 2010	December 16, 2010 (or thereafter) <sup>1</sup>
Reports from expert witnesses under FRCP 26(a)(2) due	December 18, 2010	March 28, 2011
Rebuttal expert reports due	January 17, 2011	April 25, 2011
All motions related to discovery must be noted on the motion calendar no later than the Friday before discovery closes pursuant to CR 7(d) or CR		

<sup>1</sup> Subject to the Court's availability, the parties respectfully request that the Court set dates for trial and for the Markman hearing on or as soon as practicable after the dates indicated.

<u>Event</u>	<u>Current Schedule</u>	<u><b>Proposed</b> New Schedule</u>
37(a)(1)(B)		
Discovery completed by	March 18, 2011	June 24, 2011
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see CR 7(d)(3))	March 18, 2011	June 24, 2011
Settlement conference per CR 39.1(c)(2) held no later than	April 7, 2011	July 14, 2011
Mediation per CR 39.1(c)(3) held no later than	May 7, 2011	August 12, 2011
All motions <i>in limine</i> must be filed by and noted on the motion calendar no earlier than the second Friday thereafter	May 9, 2011	August 15, 2011
Agreed pretrial order due	May 25, 2011	August 31, 2011
Pretrial conference to be scheduled by the Court		
Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits due	June 1, 2011	September 7, 2011
Length of Trial: 7-10 days	Jury	Jury

Respectfully submitted this 28<sup>th</sup> day of July, 2010.

/s/ Brian Ankenbrandt

Josh A. Krevitt\*

Y. Ernest Hsin\*

Sarah E. Piepmeier\*

Brian Ankenbrandt\*

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, NY 10166

Tel: (212) 351-4000; Fax: (212) 351-3045

\*admitted *pro hac vice*

William F. Cronin, WSBA No. 8667  
Michael A. Moore, WSBA No. 27047  
CORR CRONIN MICHELSON  
BAUMGARDNER & PREECE LLP  
1001 4th Ave., Suite 3900  
Seattle, WA 98154-1051  
Tel: (206) 621-1406; Fax: (206) 625-0900

*Attorneys for Plaintiff Amazon.com, Inc.*

/s/ Jeremy E. Roller (per email authorization)  
Angelo J. Calfo, WSBA No. 27079  
Jeremy E. Roller, WSBA No. 32021  
YARMUTH WILSDON CALFO PLLC  
818 Stewart Street, Suite 1400  
Seattle, WA 98101  
Tel: (206) 516-3800; Fax: (206) 516-3888

Michael Jacobs\*  
Deok Keun M. Ahn\*  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, CA 94105-2482  
Tel: (415) 268-7455; Fax: (415) 268-7522  
\*admitted pro hac vice

*Attorneys for Defendant Discovery  
Communications, Inc.*

**ORDER**

Based on the foregoing, IT IS SO ORDERED.

Dated this 2nd day of August, 2010.

  
HONORABLE ROBERT S. LASNIK